S.B. Civil Writ Petition No.4156/02
Nanagam Sharma Vs. MACT, Jaipur & Ors.

25.01.2007

Hon'ble Mr. Justice Mohammad Rafiq

Mr. Virendra Agarwal, Advocate for petitioner.
Mr. Rajendra Prasad, Advocate for respondent.

This writ petition has been filed against the order dated 11.4.2002 and the order dated 12.4.2002 passed by M.A.C.T., Jaipur.

The factual matrix of the case is that on account of death of one Shanker Lal who happened to be the son of the petitioner, a claim petition was filed by as many as six claimants which was compromised in Lok Adalat on 20.3.1995 by way of an award for a sum of Rs.2,50,000/-. In the scheme of apportionment proposed by the Tribunal, a sum of Rs.30,000/- was

ordered to be kept in fixed deposit jointly in favour of the petitioner Nanagram father of deceased Shankar Lal and Chhota Devi his mother. The Tribunal on application of Chhota Devi passed an order on 15.4.2002 with a direction that the 50% of the maturity amount of the FDR should be paid to Smt. Chhota Devi. Before however she could receive the amount she expired on 15.8.01.

An application was thereafter filed by respondent no.2 Smt. Anita Sharma daughter of Smt. Chhota Devi before the Tribunal with the prayer that the 50% of the amount of maturity which was ordered to be paid to late Smt. Chhota Devi should now be paid to her. Smt. Anita Sharma produced a will executed in his favour by late Chhota Devi to that effect. The Tribunal by its order dated 11.4.2002 directed that

such amount be paid to Smt. Anita Sharma on her furnishing the undertaking that she would have to refund the same if the petitioner was able to prove in any legal forum that the will was forged. Subsequently the Tribunal by order dated 22.4.2002 directed the concerned bank to make payment of the half of the maturity amount to Smt. Anita Sharma.

Learned counsel for the petitioner Mr. Virendra Agarwal argued that the Tribunal had passed an award on 20.3.95 and had directed for keeping such amount in fixed deposit for two years. The FDRs were prepared on 15.4.1995 and the period of two years having come to an end on 15.4.97, further renewal of the FDR would not confer any jurisdiction on the Tribunal to pass the impugned order as it had then become functus officio. He further argued that

Smt. Anita was not even a party to the main claim petition and therefore no part of the awarded amount can be paid to her.

On the other hand Shri Rajendra Prasad, learned counsel for the respondent argued that the difference arose between the petitioner Nanagram and Chhota Devi even during her life time because the petitioner was not parting with her share of the maturity amount so much so that she had to file an application before the Tribunal for getting her share of the amount and that is why the Tribunal had to pass an order on 18.4.2000 directing so. He argued that the other legal heirs of the deceased Chhota Devi had no objection to this amount being given to Smt. Anita Sharma who is a widow and is daughter of petitioner as well as late Smt. Chhota Devi. The Tribunal has passed the subject

order on just and reasonable considerations by securing an undertaking from Smt. Anita Sharma that in case the petitioner was able to prove that the will is forged she would have refund the entire amount.

Having considered the arguments of the learned counsel for the parties and perused the material on record I find that it is a dispute between the members of the family as to apportionment of the amount of compensation. Though the amount of Rs.30,000/- was jointly deposited in the FDR in the name of the petitioner as well as his wife Chhota Devi but when the petitioner got the FDR renewed on his own and did not make payment of the share of Chhota Devi, she had to approach the Tribunal and Tribunal passed an order on 18.4.2000 directing payment of her share. Before however he could receive the amount

she expired but left the will in favour of respondent no.2. The Tribunal has now by the impugned order directed payment of the share of the late Smt. Chhota Devi to respondent no.2, Anita Sharma on the condition of her on furnishing the undertaking that in case the petitioner was able to prove that will was forged one, she would have to refund the entire amount.

In the facts of the case I find that Tribunal has not committed any error of law which call for interference of this Court. The petitioner has already received his share of money and he cannot raise any question with regard to apportionment of the part of share which belong to late Smt. Chhota Devi which infact was ordered to be paid to her by the Tribunal during her lifetime under order dated 18.2.2000. This order was never challenged by the

petitioner before any forum known to law and thus attained finality.

In view of above discussion, I do not find any merit in this writ petition. The writ petition is dismissed with no order as to costs.

(Mohammad Rafiq),J.

Rs/-